



EPA Issues Rule Streamlining Process for Title V Permit Petitions

05.08.2020

EPA recently issued a final rule streamlining the process for filing petitions to object to the issuance or revision of Title V operating permits for major air pollution sources (the “Rule”). States typically issue, revise and ensure compliance with Title V permits. However, after states issue a new or revised Title V permit, EPA has 45 days to object to it. After this 45-day review period, there is a 60-day period in which third parties can file petitions asking EPA to object to the permit.

The Rule addressed three areas of the petition process. The Rule:

1. clarifies the submission process, with a preferred electronic filing option;
2. establishes content and format requirements; and
3. requires permitting authorities (typically states) to respond in writing to significant comments on draft Title V permits. When applicable, these responses to comments should be submitted to EPA, along with the statement of basis for the draft permit.

In the preamble to the Rule, EPA notes that these changes will ensure a more complete permit record for both the 45-day EPA review period and the 60-day third party review period. EPA believes this more complete record will reduce the need for EPA to grant third party petitions to object, because EPA’s review will be more thorough.

Petition Submission

The Rule adds a new provision to Part 70 that encourages petitions to be filed through EPA’s Central Data Exchange (CDX): <https://cdx.epa.gov/>. The site will forward the petitions to the appropriate EPA staff. Petitions may also be filed by email to titlevpetitions@epa.gov. Paper filings can still be sent to:

U.S. EPA, Office of Air Quality Planning & Standards

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Petitioners must send copies of the petition to the permittee and the permitting agency.

Petitions must identify the permit being objected to, by permit number, version number or other information readily identifying the permit. Petitions must make a full presentation of the basis of objections. The bases for EPA to object must be contained in the petition and attachments; they cannot be incorporated by reference. Complete petitions must include:

- References to the specific permit terms or conditions at issue;
- Identification of the applicable requirement(s);
- An explanation of how the permit term is not adequate to meet the applicable requirement;
- Specification of any claimed fault in public participation procedures;
- A demonstration that the objection is based on a comment made during the public comment period or that it was impractical to raise the issue within the comment period; and
- A citation to where the permitting authority addressed this issue in the record and why the response was inadequate or not addressed.

The effective date of the Rule was April 6, 2020. EPA expects that the Rule will be implemented without any additional regulatory action needed by permitting authorities. However, EPA will address any needed program revisions on a case-by-case basis under 40 CFR 70.4(i), under which program revisions are made.

[85 Fed. Reg 6431 \(Feb. 5, 2020\)](#); 40 CFR 70.4(i).

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